

Service Date: November 17, 1982

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application)
of BUTTE WATER COMPANY to In-) UTILITY DIVISION
crease Water Rates and Modify) DOCKET NO. 82.2.13
Rules and Regulations for its) ORDER NO. 4896a
Butte, Montana Customers.

APPEARANCES

FOR THE APPLICANT:

Dennis R. Lopach, Attorney at Law, Hjort and Lopach, P.O. Box 514,
Helena, Montana 59624.

James A. Robischon, Attorney at Law, 1941 Harrison Avenue Butte,
Montana 59701.

FOR THE INTERVENORS:

James C. Paine, Montana Consumer Counsel, 34 West Sixth Avenue,
Helena, Montana 59620.

FOR THE COMMISSION:

Calvin Simshaw, Staff Attorney, 1227 11th Avenue, Helena, Montana
59620.

BEFORE:

John Driscoll, Commissioner
Howard Ellis, Commissioner
Thomas J. Schneider, Commissioner

FINDINGS OF FACT

1. On March 2, 1982, Butte Water Company (Applicant or BWC) filed
an application with this Commission for authority to increase rates
and charges for water service to its customers in Butte, Montana.

The Applicant requested an average increase of approximately 6.73% which constitutes a revenue increase of approximately \$216,315 in annual revenues. The Applicant also requested modification of certain rules and regulations applicable to its utility operations.

2. Concurrent with its filing for a permanent increase in rates, BWC filed an application for an interim increase in rates of 6.73% equaling a revenue increase of approximately \$216,315 or 100% of the proposed permanent increase.

3. On April 16, 1982, the Commission having considered the data filed with the Applicant's interim application, issued Order No. 4896 granting the Applicant interim rate relief in the amount of \$87,732 annually.

4. On July 13, 1982, pursuant to Notice of Public Hearing, a hearing was held in the Montana Tech Student Union Building, Butte, Montana. The purpose of the hearing was to consider the merits of the Applicant's proposed water rate adjustment.

5. At the public hearing, the Applicant presented the following witnesses:

James Byrne, President of BWC
Elmer Moke, Rate Consultant
Gary Mannix, Superintendent of BWC
C. M. "Skip" Dunfee, Controller

6. The Montana Consumer Counsel presented the testimony of seven public witnesses at the hearing.

7. The year ending December 31, 1981 test year was uncontested and is found by the Commission to be a reasonable period within which to measure the Applicant's utility revenues, expenses and returns for the purpose of determining a fair and reasonable level of rates for water service.

RATE BASE

8. The Applicant, in its application, proposed an average original cost depreciated rate base of \$3,729,143. The Applicant, at the public hearing, reduced its rate base to the level of \$3,725,501 to reflect the assignment of 20% of the capital cost of a new computer to its Anaconda Division. This modification was accepted by all parties participating in this proceeding and, therefore, the Commission accepts the Applicant's rate base as modified.

CAPITAL STRUCTURE

9. The Applicant proposed the following capital structure for rate case presentation:

<u>Description</u>	<u>Amount</u>	<u>Ratio</u>
Debt	\$3,500,000	122.5%
Equity	<u>(642,420)</u>	<u>(22.5%)</u>
TOTAL	\$2,857,580	100.0%

The capital structure proposed by the Applicant was not challenged by any party participating in this proceeding and, therefore, is accepted by the Commission.

COST OF DEBT

10. The debt capital of the Applicant consists of a \$3.5 million loan from the Atlantic Richfield Company (ARCO), its parent company, having a term of 20 years and carrying an interest rate of 14.04%. This loan arrangement is consistent with the Findings of Fact in this Commission's Order No. 4801a, wherein the Commission found that the loan arrangement then in existence was imprudent. The Commission finds the 14.04% cost of debt to be reasonable and is accepted by the Commission. But, given the current economic

environment, it is the Commission's opinion that good business practices dictate that BWC examine the possibility of obtaining lower cost, debt capital.

11. The Commission, in discussing the Applicant's cost of debt in Order No. 4801a, indicated that if the Applicant was successful in obtaining alternative financing of its debt at an interest rate lower than that accepted in Order No. 4801a, that the Commission would allow the Applicant a continued cost of debt of 15.18% as approved in Order No. 4801a. The Commission conditioned this allowance on the proviso that the Applicant utilize any funds generated, in excess of its actual cost of debt, to finance the costs of an accelerated reconstruction program to bring the water system up to modern standards. The Commission finds it appropriate to allow the Applicant a cost of debt of 15.18% and that the Applicant should utilize any funds generated in excess of its actual debt costs to make necessary capital improvements to the system and carry the costs of said improvements on its books as customer contributed capital.

CAPITAL STRUCTURE AND COMPOSIT COST OF TOTAL CAPITAL

<u>Description</u>	<u>Amount</u>	<u>Ratio</u>	<u>Cost</u>	<u>Weighted Cost</u>
Debt	\$3,500,000	122.5%	15.18%	18.60%
Equity	<u>(642,420)</u>	<u>(22.5%)</u>	15.18%	<u>(3.42%)</u>
TOTAL	\$2,857,580	100.0%		
Composite Cost of Total Capital				15.18%

OPERATING REVENUE

12. The test period operating revenues are not a controvert issue in this case. The Applicant utilized the 12 months, ended December 31, 1981, to determine the test year revenues under the rates which became effective January 1, 1982. Total test year revenues of \$2,899,515, as calculated by the Applicant, are accepted by the

Commission.

OPERATING EXPENSE

13. The Applicant in its original application, proposed pro forma adjustments to operation and maintenance expense increasing expenses by \$160,653.

14. Prior to the hearing, in response to data requests promulgated by the Consumer Counsel, the Applicant modified its pro forma adjustments to operation and maintenance expense indicating expenses would increase by \$151,440, instead of \$160,653.

The reduced amount of increase was the result of recalculation of increases that would be experienced in wages, salaries, cost of purchased power, and gas purchased for heating. The Commission accepts the increase in operation and maintenance expense as modified by the Applicant and finds total pro forma operation and maintenance expenses to be \$2,207,478.

15. From the public testimony, in this record, it is clear that the people of Butte are experiencing difficult financial times in a period when the water system needs reconstruction. The Commission noted that the average salary per BWC employee was unusually high compared with the salary levels of other comparable utilities. These expenses border on imprudence. The Commission cautions the Company to rigorously re-examine the numbers of employees, including management, as well as the level of any salary increases.

16. Depreciation expense is found to be \$98,565.

17. Taxes other than federal income are found to be \$216,188.

18. Total deductions from operating revenues are found to be
\$2,522,231.

19. Operating income is found to be \$356,065:

Operating Revenue	\$2,878,296
Operating Deductions	<u>2,522,231</u>
Operating Income	\$ 356,065

REVENUE REQUIREMENT

Rate Base	\$3,725,501
Rate of Return	<u>15.18%</u>

Return Requirement	\$565,531
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Adjusted Balance Available for Return	356,065
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Return Deficiency	209,466
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Revenue Deficiency	209,654
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MCC Tax at .09%	188
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Income Available for Return	\$209,466
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20. In order to produce a return of 15.18% on the Applicant's average original cost depreciated rate base, the Applicant will require additional annual revenues in the amount of \$209,654 from its Butte, Montana water utility.

SERVICE

21. The discussion on the record in this Docket was limited regarding the sand problem experienced by consumers of the water utility, but there was public testimony indicating that it still exists at a diminished level. The Commission is of the opinion that continuation of the rate differential, as ordered in Order No. 4801a, is appropriate because those consumers still experiencing the sand problem are not receiving adequate service.

PROVISION OF FREE WATER SERVICE

22. At the last public hearing involving this utility, it was brought to this Commission's attention that certain consumers of the water utility were being provided water service at no charge. In its Order No. 4801a, this Commission indicated that provision of free water service was contrary to statute (69-3-305, MCA) and that the Applicant should rectify the situation.

23. In this filing, the Applicant has proposed the discontinuance of free water service to all consumers currently receiving the same, and has included the revenues that would be generated from these consumers in its pro forma revenue adjustments thereby decreasing the impact increased rates would have on other consumers.

24. The propriety of discontinuing free water service to two categories was questioned; those being, the City of Walkerville and current/retired employees of the utility. The Commission is of the opinion, in this instance, that provision of free water service to current/retired employees may be continued for the following reasons: elimination of the free water service would result in a reduction in employee compensation; employees would have to receive higher salaries to compensate them if free water service is discontinued; higher salaries in lieu of free water service, which is not taxed, could result in higher rates for utility consumers; and discontinuance of free water service to retired employees results in a reduction in retirement benefits, which was probably an implied benefit at the time of retirement.

The free water service provided the City of Walkerville is the outgrowth of an agreement entered into between the City of Walkerville and the Moulton Mining Company, predecessor of BWC, granting the Company a right of way to install water pipes in the

alleys and streets in Walkerville. Given the terms of this agreement, the Commission finds it acceptable for the utility to continue the provision of free water service, to the City, as specified in the agreement dated May 27, 1853.

The Commission does have a minute entry of October 1, 1979 stating that for rate making purposes, revenue sufficient to cover commodity costs will be attributed to the discounted rate category and in this Docket, the Applicant has attributed revenues to this category (employees and Walkerville) at that level or above.

25. The Commission finds that the Applicant should discontinue its practice of providing free water service to consumers with the exception of current/retired employees and the City of Walkerville. With regard to current/retired employees and the City of Walkerville, the Applicant, for rate making purposes, shall comply with the provision that revenue be attributed at least at the level of the commodity costs. With regard to all other free water consumers, the Commission finds it equitable to phase in their full appropriate charge. The phase in will begin with this Order by charging 1/3 of the respective consumer's appropriate charge; subsequent rate orders will be used to phase in the remaining 2/3's of the full charge.

RATE DESIGN

26, The rate design proposed by the Applicant was not challenged by any party participating in this proceeding and appears to equitably spread the increase among the various customer categories, therefore, the Commission accepts the Applicant's proposed rate design.

MISCELLANEOUS

27. There was discussion on the record relative to studies conducted by several engineering firms on the feasibility of developing small hydro-electric power generation from the utility's water supply source. Commission examination of those studies indicate that they may be incomplete. The Commission would recommend that the utility pursue further investigation of the possibility of small power production and take notice of the projects in Philipsburg and Whitefish, Montana.

28. One public witness, Alba Walden, testified that she had contracted an illness called Giardiasis from the water supplied by the BWC. From the information available to the Commission, it could not be confirmed that Giardia lamblia (the parasite causing the illness) were present in the water supply system of the BWC. But BWC should be ever mindful that this problem could occur on its system because all surface supply water sources are susceptible to contamination by the Giardia lamblia, therefore the Commission would recommend monitoring for this potential health hazard.

RULES AND REGULATIONS

29. The Applicant proposed the implementation of the following Main Extension Policy:

It shall be the policy of the Butte Water Company to extend its facilities into unimproved properties, provided the parties requesting the extension pay the actual cost of such construction from the nearest point of an adequate source of supply. It shall be the policy of the Butte Water Company to design, construct, and retain ownership of any such facilities. Butte Water Company shall rebate on yearly basis the first three years of revenue received from extensions to the parties paying for such extensions. Rebates in any one of the three years shall not exceed one-third of the original cost.

The proposed rule is consistent with the Commission's Rules Governing Water Service Provided by Privately Owned Water Utilities and is accepted by the Commission.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and subject matter in this proceeding.
2. The Commission afforded all parties interested in this proceeding proper notice and an opportunity to participate.
3. The rates approved herein are reasonable, just and proper.

ORDER

THEREFORE, THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

Butte Water Company shall file rate schedules which reflect an increase in annual revenues of \$209,654 for its Butte, Montana water service. The increased revenues shall be generated by increasing rates and charges to all customer classifications and assessment of 1/3 of the appropriate charge for consumers previously receiving free water service.

Butte Water Company is authorized to implement the Main Extension Policy outlined in Finding of Fact paragraph No. 28.

A full, true and correct copy of this Order shall be sent forthwith by first-class United States mail to the Applicant and to all other appearances herein.

The rates will become effective for water service rendered on and

after November 15, 1982.

DONE IN OPEN SESSION this 15th day of November, 1982 by a vote of 3
to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

JOHN B. DRISCOLL, Commissioner

HOWARD L. ELLIS, Commissioner

THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Madeline L. Cottrill
Commission Secretary

(SEAL)

NOTE:

You may be entitled to judicial review of the final decision in this matter. If no Motion for Reconsideration is filed, judicial review may be obtained by filing a petition for review within thirty (30) days from the service of this order. If a Motion for Reconsideration is filed, a Commission order is final for purpose of appeal upon the entry of a ruling on that motion, or upon the passage of ten (10) days following the filing of that motion. cf. the Montana Administrative Procedure Act, esp. Sec. 2-4-702, MCA; and Commission Rules of Practice and Procedure, esp. 38.2.4806 ARM.